THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.6283 OF 2006

Dated: 31st MARCH, 2006.

Between :

MIKROFLO FILTERS PVT LIMITED, 3-4-495, III Floor,
Highline Apartments, Barkatpura, Hyderabad, rep. by
Its Administrative Manager Ch. Srinivasa Murthy,
S/o. Laxminarayana, aged 59 years. … Petitioner

And

The Regional Provident Fund Commissioner (C & R),
Regional Office, Barkatpura, Hyderabad. … Respondent

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.6283 OF 2006

ORDER :

The petitioner company is engaged in the manufacture of Automobile Filter Elements. It is stated that the petitioner company employed 130 workers in its factory and has been duly complying with the provisions of the welfare legislations. The respondent - Regional Provident Fund Commissioner (C&R), Regional Office, Barkatpura, Hyderabad issued a notice dated 19-1-2006 proposing levy of interest and damages under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'the Act') alleging that the petitioner had remitted P.F. contributions belatedly during the years 1997-2005. The petitioner was directed to show-cause against the proposed levy of interest and damages. It is stated that the petitioner addressed a letter dated 28-1-2006 seeking time upto 28-2-2006. Though the request of the petitioner was accepted and time was granted upto 14-2-2006, the petitioner could not make the records ready and again sought further time. Having accepted the same, the petitioner was granted time upto 13-3-2006. However, since the former Executive Director of the petitioner company had kept the files in a disorder manner the petitioner could not submit the explanation even on 13-3-2006 and requested to grant some more time. The said request of the petitioner was not accepted and the respondent passed an order dated 16-3-2006 directing the petitioner to pay a sum of Rs.14,12,775/- under Section 14-B of the Act apart from Rs.5,10,180/- towards interest payable under Section 7-Q of the Act. The said order is under challenge in this writ petition.

I have heard Sri V. Srinivas, the learned Counsel for the petitioner and the learned Standing Counsel Sri R.N.Reddy, appearing for the respondent.

The learned Standing Counsel appearing for the respondent at the outset raised an objection to the maintainability of the writ petition contending that against the impugned order an alternative remedy of appeal is available under Section 7-I of the Act.

However, the learned Counsel for the petitioner submits that since admittedly the impugned order was an exparte order, writ petition can be maintained

notwithstanding the alternative remedy available under the Act.

Having regard to the facts and circumstances of the case and keeping in view the undisputed fact that the impugned order was passed without taking into consideration the version of the petitioner, thus nothing but a unilateral determination of the petitioner's liability, instead of directing the petitioner to avail the statutory remedy of appeal, I deem it appropriate to remit the matter to the respondent for consideration on merits subject to reasonable terms.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of granting liberty to the petitioner to submit its explanation together with the necessary supporting material, if any, within a period of eight weeks from today subject to the condition that the petitioner deposits a sum of Rs.5,10,180/- i.e., the interest part under Section 7-Q of the Act within a period of four weeks from today, in which event the respondent shall consider the version of the petitioner and pass appropriate orders afresh in accordance with law. The amount that may be paid by the petitioner in compliance with this order shall be adjusted towards the liability of the petitioner as per the fresh determination that may be made.

The Writ Petition is accordingly disposed of. No costs.

_____

G. ROHINI, J.

Dt. 31-3-2006

Note:- CC in 3 days.

(B/O)

gbs